

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

In the Matter of:)
COMPLAINT C2011-079)

Paul Roberts,)
Respondent,)

Richard G. Thomas,)
Complainant.)

DECISION AND ORDER

STATE ETHICS
COMMISSION

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RECEIVED

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Complainant, Richard G. Thomas, on May 6, 2011. On July 20, 2011, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2010), the State Ethics Commission reviewed for probable cause the above-captioned complaint charging Respondent, Paul Roberts, with a violation of Section 2-17-20.

Present at the meeting were Commission Members E. Kay Biermann-Brohl, Vice Chair, Edward E. Duryea, Richard H. Fitzgerald, JB Holeman, Jonathan H. Burnett, Priscilla L. Tanner, and G. Carlton Manley. Also present were the Commission's Executive Director, Herbert R. Hayden, Jr., and his immediate staff.

The following allegations were considered:

On May 6, 2011 the State Ethics Commission received a complaint filed by Richard G. Thomas of Johns Island against the Respondent, Paul Roberts and the Town of Kiawah Island. The complaint alleged that Respondent, a resident of Kiawah Island, has been engaged by the Town of Kiawah Island as "Transportation Consultant" in order to promote the interests of the town regarding road plans in Charleston County and on Johns Island, specifically the extension of I-526 and a road concept for Johns Island

known as “Sea Island Greenway”. Reports of the Kiawah Island Town Council indicate that Respondent has been active in meetings with various state agencies and elected officials on behalf of the town, specifically the Department of Transportation (SCDOT).

These activities appear to fall clearly within the lobbying and lobbyist principals as outlined by the State Ethics Commission. There is no record that Respondent has registered as a lobbyist and no record that the town has registered as a lobbyist principal.

STATEMENT OF FACTS

Having carefully reviewed the evidence presented, the Commission finds as fact:

1. During the time period of the allegation the Respondent, Paul Roberts, was employed as a transportation consultant for the town of Kiawah Island.
2. According to David Kinard, SCDOT Project Manager, Respondent did attend a SCDOT question and answer type meeting where different road plans were discussed pertaining to the Sea Island Greenway project. Respondent did not ask Kinard to take any SCDOT action that would promote the project.
3. At a luncheon meeting Senator Robert Ford did speak with Respondent and other constituents about the Sea Island project. Respondent did not ask Senator to take any action to assist the promotion of the project.
4. Respondent has denied engaging in any activity that could be construed as “lobbying” during the time he was employed as a transportation consultant.
5. The definition of lobbying contains the terms “public officials” and “public employees”. Both terms are defined in Section 2-17-10 and for the purposes of the lobbying law mean officials and employees of the state. Registration is not required to lobby at any level of government other than the state.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commission concludes, as a matter of law:

1. The Respondent, Paul Roberts, was a person as defined by Section 2-17-10(15).
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Section 2-17-10(12) defines lobbying as the promotion or opposing through direct communication covered legislation or covered state agency action.
4. Section 2-17-10(13) defines lobbyist to mean any person who is employed, appointed, or retained, with or without compensation, by another person to influence by direct communication with public officials or public employees: (i) the action or vote of any member of the General Assembly, the Governor, the Lieutenant Governor, or any other statewide constitutional officer concerning any legislation; (ii) the vote of any public official on any state agency, board, or commission concerning any covered agency actions; or (iii) the action of the Governor or any member of his executive staff concerning any covered gubernatorial actions. as the promotion or opposing through direct communication covered legislation or covered state agency action.
5. Section 2-17-10(14) defines lobbyist's principal to mean the person on whose behalf and for whose benefit the lobbyist engages in lobbying and who directly employs, appoints, or retains a lobbyist to engage in lobbying. However, a lobbyist's principal does not include a person who belongs to an association or organization that employs a lobbyist, nor an employee, officer, or shareholder of a person who employs a lobbyist. If

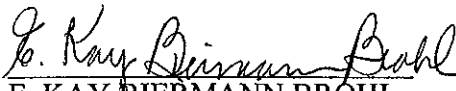
a membership association or organization is a lobbyist's principal, the association or organization must register and report under the provisions of this chapter. A person is considered a lobbyist's principal only as to the public office or public body to which he has authorized, pursuant to this chapter, a lobbyist to engage in lobbying.

DECISION

The Commission finds that the alleged lobbying activity of Respondent does not conform with the definition of lobbying as found in Section 2-17-10 (12). No evidence was presented to show lobbying activity by Respondent. Based upon the lack of evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, Paul Roberts, violated Section 2-17-20. The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i) and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 5th DAY OF August, 2011.

STATE ETHICS COMMISSION


E. KAY BIERMANN BROHL
VICE CHAIR

COLUMBIA, SOUTH CAROLINA